

Introduced by Senators Dunn and Kehoe

February 24, 2006

An act to amend Section 216 of, and to add Sections 230.1 and 230.2 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1794, as introduced, Dunn. Public utilities: refineries.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, as defined. The California Constitution authorizes the Legislature to prescribe that additional classes of private corporations or other persons are public utilities. Under the existing Public Utilities Act, a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public.

This bill would make a refinery corporation, as defined, a public utility for purposes of the act.

(2) Under existing law, a violation of any provision of the Public Utilities Act or of any of the rules or orders issued by the commission, is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission relative to a refinery corporation would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Gasoline and other refined petroleum products are basic
4 necessities for California's residents and businesses.

5 (b) High prices for gasoline and other refined petroleum
6 products harm California residents and the economy.

7 (c) The California Constitution provides that private persons
8 and corporations that own, operate, control, or manage a line,
9 plant, or system for furnishing heat, light, and power directly or
10 indirectly to or for the public, are public utilities, and that the
11 Legislature may prescribe that additional classes of private
12 corporations or other persons are public utilities.

13 (d) Persons and corporations that own, control, operate, or
14 manage oil refineries in California are public utilities, and it is in
15 the public interest for the Public Utilities Commission to regulate
16 oil refineries.

17 SEC. 2. Section 216 of the Public Utilities Code is amended
18 to read:

19 216. (a) "Public utility" includes every common carrier, toll
20 bridge corporation, pipeline corporation, *refinery corporation*,
21 gas corporation, electrical corporation, telephone corporation,
22 telegraph corporation, water corporation, sewer system
23 corporation, and heat corporation, where the service is performed
24 for, or the commodity is delivered to, the public or any portion
25 thereof.

26 (b) Whenever any common carrier, toll bridge corporation,
27 pipeline corporation, *refinery corporation*, gas corporation,
28 electrical corporation, telephone corporation, telegraph
29 corporation, water corporation, sewer system corporation, or heat
30 corporation performs a service for, or delivers a commodity to,
31 the public or any portion thereof for which any compensation or
32 payment whatsoever is received, that common carrier, toll bridge
33 corporation, pipeline corporation, *refinery corporation*, gas

1 corporation, electrical corporation, telephone corporation,
2 telegraph corporation, water corporation, sewer system
3 corporation, or heat corporation, is a public utility subject to the
4 jurisdiction, control, and regulation of the commission and the
5 provisions of this part.

6 (c) When any person or corporation performs any service for,
7 or delivers any commodity to, any person, private corporation,
8 municipality, or other political subdivision of the state, that in
9 turn either directly or indirectly, mediately or immediately,
10 performs that service for, or delivers that commodity to, the
11 public or any portion thereof, that person or corporation is a
12 public utility subject to the jurisdiction, control, and regulation of
13 the commission and the provisions of this part.

14 (d) Ownership or operation of a facility that employs
15 cogeneration technology or produces ~~power~~ *electricity* from other
16 than a conventional power source or the ownership or operation
17 of a facility which employs landfill gas technology does not
18 make a corporation or person a public utility within the meaning
19 of this section solely because of the ownership or operation of
20 that facility.

21 (e) Any corporation or person engaged directly or indirectly in
22 developing, producing, transmitting, distributing, delivering, or
23 selling any form of heat derived from geothermal or solar
24 resources or from cogeneration technology to any privately
25 owned or publicly owned public utility, or to the public or any
26 portion thereof, is not a public utility within the meaning of this
27 section solely by reason of engaging in any of those activities.

28 (f) The ownership or operation of a facility that sells
29 compressed natural gas at retail to the public for use only as a
30 motor vehicle fuel, and the selling of compressed natural gas at
31 retail from that facility to the public for use only as a motor
32 vehicle fuel, does not make the corporation or person a public
33 utility within the meaning of this section solely because of that
34 ownership, operation, or sale.

35 (g) Ownership or operation of a facility that has been certified
36 by the Federal Energy Regulatory Commission as an exempt
37 wholesale generator pursuant to Section 32 of the Public Utility
38 Holding Company Act of 1935 (Chapter 2C (commencing with
39 Section 79) of Title 15 of the United States Code) does not make

1 a corporation or person a public utility within the meaning of this
2 section, solely due to the ownership or operation of that facility.

3 (h) The ownership, control, operation, or management of an
4 electric plant used for direct transactions or participation directly
5 or indirectly in direct transactions, as permitted by subdivision
6 (b) of Section 365, sales into the Power Exchange referred to in
7 Section 365, or the use or sale as permitted under subdivisions
8 (b) to (d), inclusive, of Section 218, shall not make a corporation
9 or person a public utility within the meaning of this section solely
10 because of that ownership, participation, or sale.

11 SEC. 3. Section 230.1 is added to the Public Utilities Code, to
12 read:

13 230.1. "Refinery corporation" includes every corporation or
14 person owning, controlling, operating, or managing any refinery
15 for compensation within this state.

16 SEC. 4. Section 230.2 is added to the Public Utilities Code, to
17 read:

18 230.2. "Refinery" means any plant or facility, regardless of
19 capacity, for the processing of crude oil feedstock or the
20 manufacturing of oil products, for sale to or use by the public.

21 SEC. 5. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.